

Claim 15. Please delete "composition" in line 1 and insert --implant -- therefor.

Claim 16. Please delete "composition" in line 1 and insert -- implant -- therefor.

Claim 17. Please delete "composition" in line 1 and insert -- implant -- therefor.

Claim 18. Please delete "composition" in line 1 and insert --implant -- therefor.

Claim 21. Please delete "composition" in line 1 and insert --implant -- therefor.

Claim 22. Please delete "composition" in line 1 and insert -- implant -- therefor.

Ex. 1  
M. 1

-N.E. ?  
-N.E. ?

### Remarks

#### Rejections under 35 U.S.C. 102

The Examiner rejects claims 1, 3-8, 11, and 14-22 as being anticipated by Atala. An executed Katz-type Declaration (under 37 C.F.R. §1.132) has been provided to obviate this rejection. In the Declaration, one of the inventors, Anthony Atala, states that he and co-inventor Charles Vacanti are two of the three authors on the Atala reference. Dr. Atala also states that the third co-author of the reference, Alan Retik, did not make an inventive contribution to the subject matter of the reference and was working under Dr. Atala's direction when he participated in the research which was described in the Atala reference. Applicants submit that, in view of this Declaration, claims 1, 3-8, 11, and 14-22 are allowable.

#### Rejections under 35 U.S.C. 103

The Examiner rejects claims 2, 9, and 12 as unpatentable over Atala in view of Nevo and Vacanti. In view of the Declaration discussed above, Applicant submits that the rejection is traversed and that claims 2, 9, and 12.

#### Double Patenting

Claims 1, 3-8, 11, and 14-22 stand rejected as being unpatentable over the '854 and '778 patents under the judicially created doctrine of obviousness-type double patenting. Assignments establishing common ownership of the instant application and the '854 patent have already been filed; an Assignment establishing common ownership of the instant application and the '778 patent and a Terminal Disclaimer referring to both patents are submitted herewith. A copy of the